

### **AMENDMENTS TO THE DRAWINGS**

The attached "Replacement Sheet" of drawings include changes to Figure 3.

The attached "Replacement Sheet," which include Figures 3 replace sheets 3 of the previously filed replacement sheets of drawings.

Attachment: Replacement Sheet

### **REMARKS**

Claims 52-62 are pending in the application. Claims 52, 53, 61 and 62 have been amended. Bases for the amendments may be found throughout the written description, drawings, and claims as originally filed and as such, no new matter has been presented. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **DRAWINGS**

The drawings stand objected to for certain informalities. Applicant has attached revised drawings for the Examiner's approval. In the "Replacement Sheet" reference numerals 518 and 520 were added to Figure 3. Applicant submits that bases for the amendments may be found throughout the written description, drawings, and claims as originally filed and as such, no new matter has been presented.

In view of the aforementioned amendments to the drawings, Applicant respectfully submits that the objection to the drawings has been rendered moot.

### **REJECTION UNDER 35 U.S.C. § 102**

Applicant initially reminds the Examiner of MPEP §706.02. In this regard, prior art rejections should ordinarily be confined strictly to the best available art and merely cumulative rejections should be avoided.

Claims 52-56 and 60 stand rejected under 35 U.S.C. § 102(b) as being anticipated by EP 0215 165. This rejection is respectfully traversed.

Applicant notes that Claim 52 recites that the elbow is configured to "direct air exiting the inlet in a direction both toward the circumferentially extending wall and rearwardly toward the impeller". In contrast, the EP 0215 165 reference describes its deflector as being configured to direct "all matter entering the passage 260 downwards towards the bottom of the storage chamber 246." The Office appears to have acknowledged this deficiency, stating that "with operation of the blower, air is naturally drawn from inlet toward impeller located rearwardly in housing." Applicant notes, however, that the downward positioning of the deflector (262) reduces the efficiency of the vacuum and as such, the combination of the downwardly directed deflector (262) and the blower (228) in the EP 0215 165 reference does not teach or suggest an elbow that is configured to "direct air exiting the inlet in a direction both toward the circumferentially extending wall and rearwardly toward the impeller" as is recited in Claim 52.

Accordingly, Applicant submits that the EP 0215 165 reference does not present a prima facie case of anticipation and respectfully requests that the Office reconsider and withdraw the rejection of Claim 52 under 35 U.S.C. §102(b).

Applicant notes that as Claims 53-56 and 60 depend from Claim 52, these claims should overcome the rejection under 35 U.S.C. §102(b) for at least the reasons expressed above for Claim 52.

Claims 52-56 and 60 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Levine (Re 33,074). This rejection is respectfully traversed.

Applicant notes that Claim 52 recites that the elbow is configured to "direct air exiting the inlet in a direction both toward the circumferentially extending wall and rearwardly toward the impeller". In contrast, Levine describes its deflector as being

configured to direct "all matter entering the passage 260 downwards towards the bottom of the storage chamber 246." The Office appears to have acknowledged this deficiency, stating that "with operation of the blower, air is naturally drawn from inlet toward impeller located rearwardly in housing." Applicant notes, however, that the downward positioning of the deflector (262) reduces the efficiency of the vacuum and as such, the combination of the downwardly directed deflector (262) and the blower (228) in Levine does not teach or suggest an elbow that is configured to "direct air exiting the inlet in a direction both toward the circumferentially extending wall and rearwardly toward the impeller" as is recited in Claim 52.

Accordingly, Applicant submits that Levine does not present a prima facie case of anticipation and respectfully requests that the Office reconsider and withdraw the rejection of Claim 52 under 35 U.S.C. §102(b).

Applicant notes that as Claims 53-56 and 60 depend from Claim 52, these claims should overcome the rejection under 35 U.S.C. §102(b) for at least the reasons expressed above for Claim 52.

Claims 52-56 and 60 stand rejected under 35 U.S.C. § 102(b) as being anticipated by EP 0 170 720. This rejection is respectfully traversed.

Applicant notes that Claim 52 has been amended to include that a filter, which is coupled to at least one of the dirt cup and the motor housing. The filter includes a filter member (e.g., primary filter 414) and a structure into which the air drawn through the inlet is received before the air is passed through the filter member (e.g., prefilter 412). Claim 52 recites that the elbow is spaced axially forward of the structure. In contrast, the EP 0 170 720 reference employs a filter with a filter member (19) that is mounted in a filter housing

(28). An opening (27) of the filter housing (28) through which all of the air that is received by the filter member (19) passes is disposed forwardly of a rearward end (33) of the deflector (32). Accordingly, the EP 0 170 720 reference does not teach or suggest a vacuum in which an elbow is spaced axially forward of a structure through which air passes before it flows into a filter member.

Accordingly, Applicant submits that the EP 0 170 720 reference does not present a prima facie case of anticipation and respectfully requests that the Office reconsider and withdraw the rejection of Claim 52 under 35 U.S.C. §102(b).

Applicant notes that as Claims 53-56 and 60 depend from Claim 52, these claims should overcome the rejection under 35 U.S.C. §102(b) for at least the reasons expressed above for Claim 52.

#### **REJECTION UNDER 35 U.S.C. § 103**

Applicant reminds the Examiner of MPEP §706.02. In this regard, prior art rejections should ordinarily be confined strictly to the best available art and merely cumulative rejections should be avoided.

Claims 57-59 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP0 215 165 as applied to claim 52 above, and further in view of JP2002-136456. This rejection is respectfully traversed.

Applicant notes that Claims 57-59 depend from Claim 52 and that as such, these claims should overcome the rejection under 35 U.S.C. §103(a) for at least the reasons expressed above for Claim 52. Accordingly, reconsideration and withdrawal of the rejection of Claims 57-59 under 35 U.S.C. §103(a) is respectfully requested.

Claims 57-59 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Levine (Re. 33,074) as applied to claim 52 above, and further in view of JP2002-136456. This rejection is respectfully traversed.

Applicant notes that Claims 57-59 depend from Claim 52 and that as such, these claims should overcome the rejection under 35 U.S.C. §103(a) for at least the reasons expressed above for Claim 52. Accordingly, reconsideration and withdrawal of the rejection of Claims 57-59 under 35 U.S.C. §103(a) is respectfully requested.

Claims 57-59 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 0 170 720 as applied to claim 52 above, and further in view of JP2002-136456. This rejection is respectfully traversed.

Applicant notes that Claims 57-59 depend from Claim 52 and that as such, these claims should overcome the rejection under 35 U.S.C. §103(a) for at least the reasons expressed above for Claim 52. Accordingly, reconsideration and withdrawal of the rejection of Claims 57-59 under 35 U.S.C. §103(a) is respectfully requested.

Claims 61-62 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 0 215 165 in view of JP2002-136456. This rejection is respectfully traversed.

Applicant notes that Claims 61 and 62 recite that the elbow is configured to "direct air exiting the inlet in a direction both toward the circumferentially extending wall and rearwardly toward the impeller". In contrast, the EP 0215 165 reference describes its deflector as being configured to direct "all matter entering the passage 260 downwards towards the bottom of the storage chamber 246." The Office appears to have

acknowledged this deficiency, stating that "with operation of the blower, air is naturally drawn from inlet toward impeller located rearwardly in housing." Applicant notes, however, that the downward positioning of the deflector (262) reduces the efficiency of the vacuum and as such, the combination of the downwardly directed deflector (262) and the blower (228) in the EP 0215 165 reference does not teach or suggest an elbow that is configured to "direct air exiting the inlet in a direction both toward the circumferentially extending wall and rearwardly toward the impeller" as is recited in Claims 61 and 62.

Accordingly, Applicant submits that the combination of the EP 0215 165 reference and JP2002-136456 does not present a prima facie case of obviousness and respectfully requests that the Office reconsider and withdraw the rejection of Claims 61 and 62 under 35 U.S.C. §103(a).

Claims 61-62 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Levine (Re. 33,074) in view of JP2002-136456. This rejection is respectfully traversed.

Applicant notes that Claim 61 and 62 recite that the elbow is configured to "direct air exiting the inlet in a direction both toward the circumferentially extending wall and rearwardly toward the impeller". In contrast, Levine describes its deflector as being configured to direct "all matter entering the passage 260 downwards towards the bottom of the storage chamber 246." The Office appears to have acknowledged this deficiency, stating that "with operation of the blower, air is naturally drawn from inlet toward impeller located rearwardly in housing." Applicant notes, however, that the downward positioning of the deflector (262) reduces the efficiency of the vacuum and as such, the combination of the downwardly directed deflector (262) and the blower (228) in Levine does not teach or

suggest an elbow that is configured to “direct air exiting the inlet in a direction both toward the circumferentially extending wall and rearwardly toward the impeller” as is recited in Claims 61 and 62.

Accordingly, Applicant submits that the combination of Levine and JP2002-136456 does not present a prima facie case of obviousness and respectfully requests that the Office reconsider and withdraw the rejection of Claims 61 and 62 under 35 U.S.C. §103(a).

Claims 61-62 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 0 170 720 in view of JP2002-136456. This rejection is respectfully traversed.

Applicant notes that Claims 61 and 62 have been amended to specify that the filter includes a filter member (e.g., primary filter 414) and a structure into which the air drawn through the inlet is received before the air is passed through the filter member (e.g., prefilter 412). Claims 61 and 62 recite that the elbow is spaced axially forward of the structure. In contrast, the EP 0 170 720 reference employs a filter with a filter member (19) that is mounted in a filter housing (28). An opening (27) of the filter housing (28) through which all of the air that is received by the filter member (19) passes is disposed forwardly of a rearward end (33) of the deflector (32). Accordingly, the EP 0 170 720 reference does not teach or suggest a vacuum in which an elbow is spaced axially forward of a structure through which air passes before it flows into a filter member.

Accordingly, Applicant submits that the combination of the EP 0 170 720 reference and JP2002-136456 does not present a prima facie case of obviousness and respectfully requests that the Office reconsider and withdraw the rejection of Claims 61 and 62 under 35 U.S.C. §103(a).



Applicant notes that as Claims 53-56 and 60 depend from Claim 52, these claims should overcome the rejection under 35 U.S.C. §102(b) for at least the reasons expressed above for Claim 52.

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

/ Michael D. Zalobsky /

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By: \_\_\_\_\_

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